

Department of Administration

Title: Assignment of Rights of Recovery

Policy #: 7.07

Effective Date: February 1, 2008

Approved: Brett Dahl

I. Policy Purpose

This policy sets forth the duties and responsibilities of state agencies in resolving claims that arise from third party negligence where the state has an insurable interest.

II. Definitions

State – means the State of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state (§2-9-101, MCA).

Third Party - an entity other than the state.

Third Party Negligence - a claim that arises from the negligent act or omission of a third party.

Indemnification – a contractual obligation whereby an indemnitor (i.e. an insurance entity) agrees to pay claims in behalf of an indemnitee (i.e. an insured) for a specific loss exposure and for a specific time period.

Insurable Interest – an act, activity, or asset of the state that, in the absence of indemnification by a third party, would have been covered under the state property/casualty insurance program.

Rights of Recovery – a legal right to recover money in a third party claim where the state has an insurable interest.

III. Roles and Responsibilities

1. After a state agency has suffered a loss that arises from a third party negligence, the state employee most familiar with the incident should immediately notify his/her supervisor and complete a **Report of Incident** form. For vehicular accidents, guidelines about what information to collect and what to say and do at the accident scene may be found in the **Accident Form** pamphlet in the vehicle glove box.
2. Follow the procedures and utilize the forms specified in Risk Management & Tort Defense Division Policy 7.02 at

<http://rmt.d.mt.gov/claims/agenciesreportclaims.asp>. Call the claims staff at the Risk Management & Tort Defense Division if you have any questions (406)444-2421.

3. Do NOT enter into negotiations with any third party, sign settlement documents, or in any other way agree to resolve your claim with a third party. By doing so, you may waive the state's "Rights of Recovery" against the negligent party. **Example:** University athletic equipment is damaged during an airline flight from Montana to California. Total damages are estimated at \$3,000. Since each university is responsible for a \$1,000 property deductible, the university assumes that it is responsible for the deductible and settles with the airline for \$2,000 not realizing that it has just waived its right to recover \$1,000 from the airline.
4. Agencies that waive the state's "Right of Recovery" in any claim may be responsible for the entire amount of the loss.

IV. Rules Governing

None

V. Statutes Governing

None

VI. Forms

None

VII. Administrative Use

History Log	
Approved Date:	
Effective Date:	August 1, 1998
Change and Review Contact:	Marjie Adams
Review:	Event Review: Any event affecting this policy may initiate a review. Such events may include a change in statute, key staff changes or a request for review or change.
Scheduled Review Date:	Five years from Effective Date
Last Review/Revision:	February 8, 2008
Changes:	